

**TITLE 13. PUBLIC SAFETY****CHAPTER 12. PRIVATE INVESTIGATOR AND SECURITY GUARD HEARING BOARD**

(Authority: A.R.S. § 32-2405(A)(4) et seq.)

**ARTICLE 1. PRIVATE INVESTIGATOR AND SECURITY GUARD HEARING BOARD**

*Article 1, consisting of Sections R13-12-101 through R13-12-108, made by final rulemaking at 12 A.A.R. 2844, effective July 11, 2006 (Supp. 06-3).*

## Section

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**ARTICLE 1. PRIVATE INVESTIGATOR AND SECURITY GUARD HEARING BOARD****R13-12-101. Definitions**

The following definitions apply to this Article:

“Applicant” means an individual who meets the prerequisites in R13-12-102.

“Board” means the Private Investigator and Security Guard Hearing Board.

“Department” means the Arizona Department of Public Safety.

“Department’s notice” means a notice of denial issued by the Department under A.R.S. § 32-2640, 32-2641, or 32-2459.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2844, effective July 11, 2006 (Supp. 06-3).

**R13-12-102. Good-cause Exception Prerequisites**

The Board shall consider an individual for a good-cause exception only if:

1. The individual:
  - a. Is denied a security guard agency license under A.R.S. § 32-2640 for failure to qualify under A.R.S. § 32-2612(A)(3);
  - b. Is denied an associate, security guard, or armed security guard registration certificate under A.R.S. § 32-2641 for failure to qualify under A.R.S. § 32-2622(A)(3);
  - c. Is denied a private investigator agency license under A.R.S. § 32-2459 for failure to qualify under A.R.S. § 32-2422(A)(3); or
  - d. Is denied a private investigator associate or employee registration certificate under A.R.S. § 32-2459 for failure to qualify under A.R.S. § 32-2441(A)(3);
2. The individual completed all terms of sentencing imposed as a result of all felony convictions; and
3. The individual completed all terms of sentencing imposed as a result of all felony convictions at least

10 years before the date on the Department’s notice.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R. 2844, effective July 11, 2006 (Supp. 06-3).

**R13-12-103. Application for a Good-cause Exception**

- A. To apply for a good-cause exception, an applicant shall submit eight copies of the following materials to the Board within 60 days from the date on the Department’s notice:
  1. A good-cause exception application form, which is available from the Department, that includes the following information about the applicant:
    - a. Full legal name;
    - b. Any other names ever used;
    - c. Date of birth;
    - d. Mailing address;
    - e. Home and daytime telephone numbers;
    - f. List of all of applicant’s felony arrests not listed on the Department’s notice;
  - g. Detailed description of all of applicant’s felony arrests including:
    - i. Circumstances leading to the arrest;
    - ii. Who else was involved in the event leading to the arrest;
    - iii. Where and when the event occurred;
    - iv. Mitigating circumstances, if any;
    - v. Disposition of the charge;
    - vi. Terms of sentencing, if any; and
    - vii. Whether the sentencing terms have been completed satisfactorily; and
  - h. Applicant’s notarized signature certifying that the information provided is true and correct;
2. Two letters of reference, on a form prescribed by the Board, that attest to the applicant’s rehabilitation and meet the following requirements:
  - a. Both letters of reference are from individuals who have known the applicant at least one year; and
  - b. At least one letter of reference is from the applicant’s current or former employer or an individual who has known the applicant at least three years;
3. If the Department’s notice indicates that the Department was unable to determine the disposition of a felony charge, a copy of documents from the appropriate court showing the disposition of the felony charge or showing that records regarding the felony charge against the applicant either do not exist or have been purged; and
4. For every felony conviction, regardless of whether the conviction is listed on the Department’s notice, a copy of documents from the appropriate court showing that the applicant met all judicially imposed sentencing terms or that records regarding the applicant either do not exist or have been purged.

- B.** An applicant may submit other documents that the applicant wants the Board to consider in determining whether to grant a good-cause exception.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
2844, effective July 11, 2006 (Supp. 06-3).

**R13-12-104. Hearing on Good-cause Exception**

- A.** The Board shall schedule a hearing regarding a good-cause exception for an applicant to occur within 60 days after receiving the materials described in R13-12-103.
- B.** The Board shall provide the applicant with at least 30 days notice of the date, time, and location of the hearing on the applicant's application for a good-cause exception.
- C.** The applicant may be represented at the hearing.
- D.** If the applicant plans to present written evidence at the hearing that was not included with the application, the applicant shall submit the written evidence to the Board through the Department at least five days before the hearing.
- E.** The Board shall conduct the hearing in an informal manner without adherence to the rules of evidence required in a judicial proceeding.
- F.** At the hearing, the applicant shall show to the Board's satisfaction that the applicant:
  - 1. Has never been convicted of an offense listed in A.R.S. § 41-1758.03(B), and
  - 2. Is not awaiting trial on an offense listed in A.R.S. § 41-1758.03(B).
- G.** At the hearing, the applicant has the burden of persuading the Board that the applicant should be granted a good-cause exception.
- H.** In deciding whether to grant a good-cause exception, the Board shall consider:
  - 1. The extent of the applicant's criminal record;
  - 2. The length of time that has elapsed since the most recent offense was committed;
  - 3. The nature of the offense;
  - 4. Evidence supporting any applicable mitigating circumstances;
  - 5. Evidence supporting the degree to which the applicant participated in the offense; and
  - 6. Evidence supporting the extent of the applicant's rehabilitation, including:
    - a. Completion of probation, parole, or community supervision;
    - b. Whether the applicant paid restitution or other compensation for the offense;
    - c. Evidence of positive action to change criminal behavior such as completing a drug-treatment program or counseling; and
    - d. Personal references attesting to the applicant's rehabilitation.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
2844, effective July 11, 2006 (Supp. 06-3).

**R13-12-105. Vacating, Rescheduling, or Continuing a Hearing**

- A.** Vacating a hearing. If an applicant withdraws the applicant's application for a good-cause exception, the Board

shall vacate the hearing regarding the application.

- B.** Rescheduling a hearing. The Board shall reschedule a hearing if the applicant submits a written request to the Board at least 48 hours before the scheduled hearing that demonstrates:
  - 1. Attending the scheduled hearing is impossible using reasonable diligence or will cause undue hardship; and
  - 2. Rescheduling the hearing will avoid prejudice.
- C.** Continuing a hearing. The Board shall continue a hearing if the continuance will serve administrative convenience, expediency, or economy and avoid prejudice.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
2844, effective July 11, 2006 (Supp. 06-3).

**R13-12-106. Telephonic Testimony**

The Board shall allow an applicant or a witness for the applicant to provide telephonic testimony at the hearing on the applicant's application for a good-cause exception if:

- 1. The applicant submits a written request to the Board at least 48 hours before the scheduled hearing that demonstrates:
  - a. Personal appearance at the hearing by the applicant or applicant's witness will cause undue hardship, and
  - b. Telephonic presence will not cause prejudice, and
- 2. The applicant pays all costs resulting from the telephonic appearance.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
2844, effective July 11, 2006 (Supp. 06-3).

**R13-12-107. Failure to Appear**

If an applicant or the applicant's representative fails to appear at the scheduled hearing, the Board shall:

- 1. Conduct the hearing and decide whether to grant or deny the good-cause exception based on the evidence previously submitted, or
- 2. Reschedule the hearing.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
2844, effective July 11, 2006 (Supp. 06-3).

**R13-12-108. Notice of Decision**

- A.** Within seven business days after concluding the hearing regarding a good-cause exception for an applicant, the Board shall provide written notice to the applicant that the good-cause exception has been granted or denied.
- B.** The Board shall provide to the Department a copy of the written notice granting or denying a good-cause exception so the Department can take any needed action regarding the applicant's application for licensure.

**Historical Note**

New Section made by final rulemaking at 12 A.A.R.  
2844, effective July 11, 2006 (Supp. 06-3).